

Introduced by Senator Denham

February 19, 2010

An act to amend Section 4000 of, and to add Sections 36018 and 38025.1 to, the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 1229, as introduced, Denham. Off-highway motor vehicles: agricultural use: highways.

(1) Existing law prohibits a person from operating an off-highway motor vehicle upon a highway, except to cross a 2-lane highway at an angle of approximately 90 degrees to the direction of the roadway under specified conditions.

This bill would allow a farmer, a rancher, or an employee of a farmer or rancher to operate an off-highway motor vehicle used exclusively in the conduct of agricultural operations that is in compliance with statutory identification and equipment requirements, and specified restrictions, to be operated upon a highway that is not a freeway and consists of not more than 2 lanes. The bill would prohibit a farmer, a rancher, or an employee of a farmer or rancher from operating an off-highway motor vehicle on a highway if a portion of that highway is in a construction or maintenance area that is clearly posted.

The bill also would define “off-highway motor vehicle used exclusively in the conduct of agricultural operations” and “all-terrain vehicle used exclusively in the conduct of agricultural operations.”

(2) Under existing law, a violation of the Vehicle Code is an infraction, unless otherwise specified.

This bill would impose a state-mandated local program by creating a new infraction.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 4000 of the Vehicle Code is amended to
2 read:

3 4000. (a) (1) ~~No~~A person shall *not* drive, move, or leave
4 standing upon a highway, or in an offstreet public parking facility,
5 any motor vehicle, trailer, semitrailer, pole or pipe dolly, or logging
6 dolly, unless it is registered and the appropriate fees have been
7 paid under this code or registered under the permanent trailer
8 identification program, except that an off-highway motor vehicle
9 ~~which~~ *that* displays an identification plate or device issued by the
10 department pursuant to Section 38010 may be driven, moved, or
11 left standing in an offstreet public parking facility *or may be*
12 *operated by a farmer, a rancher, or an employee of a farmer or*
13 *rancher in the manner authorized in Section 38025.1* without being
14 registered or paying registration fees.

15 (2) For purposes of this subdivision, “offstreet public parking
16 facility” means either of the following:

17 (A) ~~Any~~A publicly owned parking facility.

18 (B) ~~Any~~A privately owned parking facility for which ~~no~~ a fee
19 for the privilege to park is *not* charged and which is held open for
20 the common public use of retail customers.

21 (3) This subdivision does not apply to ~~any~~ a motor vehicle stored
22 in a privately owned offstreet parking facility by, or with the
23 express permission of, the owner of the privately owned offstreet
24 parking facility.

25 (b) ~~No~~A person shall *not* drive, move, or leave standing upon
26 a highway ~~any~~ a motor vehicle, as defined in Chapter 2
27 (commencing with Section 39010) of Part 1 of Division 26 of the
28 Health and Safety Code, ~~which~~ *that* has been registered in violation
29 of Part 5 (commencing with Section 43000) of that Division 26.

1 (c) Subdivisions (a) and (b) do not apply to ~~off-highway motor~~
2 ~~vehicles~~ *an off-highway motor vehicle* operated pursuant to
3 Sections 38025 and 38026.5.

4 (d) This section does not apply, following payment of fees due
5 for registration, during the time that registration and transfer is
6 being withheld by the department pending the investigation of any
7 use tax due under the Revenue and Taxation Code.

8 (e) Subdivision (a) does not apply to a vehicle that is towed by
9 a tow truck on the order of a sheriff, marshal, or other official
10 acting pursuant to a court order or on the order of a peace officer
11 acting pursuant to this code.

12 (f) Subdivision (a) applies to a vehicle that is towed from a
13 highway or offstreet parking facility under the direction of a
14 highway service organization when that organization is providing
15 emergency roadside assistance to that vehicle. However, the
16 operator of a tow truck providing that assistance to that vehicle is
17 not responsible for the violation of subdivision (a) with respect to
18 that vehicle. The owner of an unregistered vehicle that is disabled
19 and located on private property, shall obtain a permit from the
20 department pursuant to Section 4003 prior to having the vehicle
21 towed on the highway.

22 (g) For purposes of this section, possession of a California
23 driver's license by the registered owner of a vehicle shall give rise
24 to a rebuttable presumption that the owner is a resident of
25 California.

26 SEC. 2. Section 36018 is added to the Vehicle Code, to read:

27 36018. "Off-highway motor vehicle used exclusively in the
28 conduct of agricultural operations" or "all-terrain vehicle used
29 exclusively in the conduct of agricultural operations" means a
30 motor vehicle subject to subdivision (a) of Section 38010 that
31 meets all of the following conditions:

32 (a) The vehicle is designed for operation off of highways and
33 is used exclusively in the conduct of an agricultural operation.

34 (b) The vehicle carries not more than one passenger.

35 (c) The vehicle is less than or equal to 50 inches wide.

36 (d) The vehicle's unladen weight is less than or equal to 900
37 pounds.

38 (e) The vehicle is designed to travel on three or more
39 low-pressure, rubber tires.

(f) The vehicle has a seat or saddle designed to be straddled by the operator or a single seat designed to be straddled by the operator and a seat for not more than one passenger.

(g) The vehicle has handlebars for steering control.

SEC. 3. Section 38025.1 is added to the Vehicle Code, to read:

38025.1. (a) A farmer, a rancher, or an employee of a farmer or rancher may operate upon a highway, other than a freeway, an off-highway motor vehicle used exclusively in the conduct of agricultural operations, as defined in Section 36018, and that is in compliance with the identification requirements of this chapter and the equipment requirements of Chapter 6 (commencing with Section 38325), if the highway consists of not more than two lanes and the vehicle is operated in accordance with the following restrictions:

(1) If the vehicle is crossing the highway, the following apply:

(A) The vehicle may only cross the highway from and to adjacent and lawfully accessible property.

(B) The highway is clearly visible to the operator and free of oncoming traffic for at least one-half mile in each direction.

(C) The operator crosses the highway at a 90 degree angle.

(D) An operator may temporarily stop on a median, if present, and if the median is at least 10 feet wide, in order to ensure the safe crossing of the vehicle.

(2) An off-highway motor vehicle may travel along a shoulder of a highway that is at least 10 feet wide for a distance of not more than 100 yards and only if that travel is necessary to lawfully access adjacent property.

(b) A farmer, a rancher, or an employee of a farmer or rancher shall not operate an off-highway motor vehicle upon a portion of a highway under subdivision (a) if that portion of the highway is in a highway construction or maintenance area that is clearly posted.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within

1 the meaning of Section 6 of Article XIII B of the California
2 Constitution.

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